

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
RESEARCH COMMITTEE
MEETING MINUTES**

February 3, 2016

1. CALL TO ORDER

Chair Laurie Cohen Yoo welcomed everyone and called the meeting of the Research Committee of the California Commission on Disability Access (CCDA or Commission) to order at 1:30 p.m. at the Westfield Corp. 2049 Century Park East, 41st Floor, Los Angeles, 90067.

The off-site meeting locations for teleconference were the Law Office of Paul L. Rein, 200 Lakewide Drive, Suite A, Oakland, 94612; Sage Modern, 65 Annie Street, San Francisco, 94105; and the Department of Rehabilitation, 721 Capitol Mall, Room 244, Sacramento, 95814.

Chair Yoo reviewed the meeting protocols.

ROLL CALL

Executive Director Jemmott called the roll and confirmed the presence of a quorum.

Commissioners Present:

Laurie Cohen Yoo, Chair
Steve Dolim (via teleconference)
Chris Downey (via teleconference)
Celia McGuinness (via teleconference)

Staff Present:

Angela Jemmott, Executive Director
Addison Embry, Program Analyst
Brandon Estes, Program Analyst
Fajola Jackson, Office Technician

Also Present:

No members of the public addressed the Commission.

APPROVAL OF MEETING MINUTES (NOVEMBER 5, 2015) – ACTION

MOTION: Commissioner McGuinness moved to approve the November 5, 2015, California Commission on Disability Access Research Committee Meeting Minutes as presented. Chair Yoo seconded. Motion carried unanimously.

2. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

There were no questions or comments from the public.

3. OUTSTANDING ACTION ITEMS - DISCUSSION

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Executive Director Jemmott stated the outstanding action items will be discussed in agenda items 5 and 6.

4. CCDA RESPONSE TO AB 1521 - DISCUSSION

a. Review of Mandates

Executive Director Jemmott stated legislators have asked the Commission to identify areas that require further clarification in Assembly Bill (AB) 1521 for the Commission to meet its mandate. Answers will be provided from the Legislative Committee, which will review the bill from a legislative standpoint, and the Research Committee, which will review it from the standpoint of developing research tools.

Standard Format and Delinquent Submittals

Executive Director Jemmott referenced AB 1521, Sections 55.32(b)(1) and (2) and 55.32(c):

- There is an inability to verify that the demand letters submitted to the CCDA were also submitted to the State Bar.
- There is a need for the CCDA to specify the standard format for the submittal notifications as per statute.
- There is a need for a protocol for staff to follow for attorneys who do not comply with the 5-day submittal deadline as mandated, sometimes submitting months of delinquent information in one email. Delayed submittals impact reporting accuracy and staff workload.

Chair Yoo stated the statute goes on to say that, if the State Bar receives information, they have the ability to investigate and take action. The question is if the Commission should report delinquent submittals to the State Bar or reach out to the individuals to give them an opportunity to comply.

Commissioner Downey stated it is important to enforce the requirement. Ignoring noncompliance may encourage further noncompliance. He spoke in support of contacting individuals to remind them of the law and encourage them to comply. He stated the need for the CCDA to determine at what point they should be referred to the State Bar.

Commissioner McGuinness asked about tracking delinquent submittals. It would be useful to know the percentage of individuals that fail to turn submittals in on time and how late they are. Executive Director Jemmott stated that is being tracked on the database.

Commissioner Dolim suggested reporting the percentage of delinquent submittals and other statistics as a footnote to the reports. He gave an example, "In the last reporting period, 10 percent of the submittals were late and outside the parameters of the previous report," to alert the reader that there is a variance of plus or minus 10 percent more that are not being reported based on past history.

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Commissioner McGuinness agreed that collecting the information is important to see if it has any statistically significant impact on the data reported.

Commissioner McGuinness asked about the role of the CCDA in reporting to the State Bar. The Legislature has not provided the CCDA with funding for enforcement. Limited resources are better spent on things other than being an enforcement arm of the State Bar.

Chair Yoo agreed and stated the need to set up a policy for staff to consistently follow.

The Exemption to Qualified Legal Services Projects or Support Centers

Executive Director Jemmott referenced AB 1521, Sections 55.32(g) and (h), regarding the exemption to qualified legal services projects or support centers. She asked if these entities should be separated out. Some entities submit information even though they are not required to do so. The law states the CCDA should not include them in the report; it does not say that they should not submit the information. The law should be more clearly stated.

Commissioner McGuinness stated her interpretation is that legal services entities do not have to report to the CCDA. It seems that these entities have been included in the CCDA reporting to date, but now they have been exempted.

Commissioner McGuinness stated the exemption of these entities does not assist the Commission's research effort because it hampers the ability to determine how many access violations there are. She asked how many legal services entities have sent demands or filed complaints in the last three years.

Executive Director Jemmott stated some entities are clear because of their name, but others are not. Staff would have to research who they are before that question can be answered.

Commissioner McGuinness suggested reporting that the data included an unknown number of legal services complaints and demands up to October of 2015 and, now that the Legislature has exempted legal services entities, the complaints and damages data only reflects complaints and demands sent by private attorneys. This means the CCDA will be unable to research access lawsuits in the legal services arena. She stated it would be helpful to learn how many legal services are doing this work.

Chair Yoo stated there is an assumption in the statute that legal services entities have a minimal impact. She suggested including a checkbox on the form for the next year to determine if they are a small percentage and therefore not statistically relevant and worth burdening those organizations. She suggested as language for the checkbox, "I qualify as a qualified legal services project or qualified support services center as defined in Section 6213 of the Business and Professions Code." This way, staff would not have to make that evaluation or judgment at all.

Chair Yoo stated the recommendation from the Research Committee to the Legislative Committee is that qualified legal services projects and support centers remain as part of

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the reporting requirements, at least in the short-term, to evaluate the impact on the overall numbers.

High Frequency Litigant Fee

Executive Director Jemmott referenced AB 1521 Section 68085.35(a), (b), and (b)(1) and the \$1,000 fee to be collected from self-identified high frequency litigants and deposited in a bank account established by the Administrative Office of the Courts (AOC), \$500 of which is to be distributed to the CCDA. The amount due to the CCDA to date is \$20,000 to \$30,000, unofficially. Staff continues to work with the AOC on the logistics of transferring the amount due to the Commission. She suggested asking the Legislative Committee to take on this task.

Commissioner McGuinness requested that staff provide Committee Members with the number of different individuals who have self-identified as high frequency litigants, the months they reported, how many times it has happened, and the number who have paid the fee for research and analysis purposes within the Research and Legislative Committees.

b. Impact

Executive Director Jemmott stated there have been about 500 case resolutions to date since December of 2015. Staff has not fully developed the tool for collecting that information and continues to work on that database. The case resolution data has greatly increased staff's workload.

Chair Yoo stated she does not see a way to alleviate the workload without additional funding or moving to electronic reporting and generating of information. She asked if the information is being reported on the online form. Executive Director Jemmott answered in the affirmative.

Action Items:

- Staff is to provide Committee Members with the number of different individuals who have self-identified as high frequency litigants, the months they reported, how many times it has happened, and the number who have paid the fee.

5. CCDA DATA COLLECTION - UPDATE AND DISCUSSION

a. Case Collection Year-to-Date Results

b. Current Case Resolution Statistics

C. Data Tools Research

Executive Director Jemmott stated the CCDA annual report to the Legislature on the data collection project has been posted on the website. Staff has been researching data tools and process efficiency and has interviewed a number of research agencies for their recommendations. Staff is running out of space for the storage of the collected data. There is a need for a new process of collecting the data and new tools, such as an

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analytical tool that scans and separates the data for easy retrieval and improved reporting.

CCDA Case Resolution Reporting Form

Executive Director Jemmott summarized the proposed changes made per public feedback to the online CCDA Case Resolution Reporting Form draft, revised December 23, 2015.

Executive Director Jemmott pointed out the proposed change of “injunctive relief obtained” in number 12 to “relief obtained.” Chair Yoo stated the proposed change means not necessarily obtaining that information, because the only way to get it is if it was included in the optional section.

Commissioner McGuinness stated asking if there was relief obtained by judgment is only asking if it resolved at trial or summary judgment, not asking about the type of result.

Executive Director Jemmott stated number 13 is “another result achieved without judgment.” Chair Yoo spoke against the words “another result” because there is always a result achieved.

Commissioner McGuinness stated the purpose of this form is to learn about settlements that remove barriers. She suggested changing number 12 to ask if barrier removal was part of the resolution.

Chair Yoo suggested adding if these were remedied in whole or part and whether or not a favorable result was achieved. She stated the concern that intent of the form is lost unless the optional portion is filled out and, if someone does not want to fill out the optional section, there is no way to know whether or not the corrective work was performed.

Commissioner McGuinness agreed. She stated the feedback was valid, but the language change has inadvertently narrowed rather than broadened the net. She suggested going back to the original language of the statute, such as “Were the construction-related access barriers remedied? (Yes or no.) Was some other favorable result achieved? (Yes or no.) If so, please fill out the optional section.

Action Items:

- No action items.

6. FUTURE AGENDA ITEMS

This agenda item was not addressed.

7. ADJOURN

There being no further business, the meeting was adjourned at 3:00 p.m.